HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.No.2148 of 2005

Date of decision : 17.11.2006.

Subhash Jain **.....Petitioner**

versus

Sanjay Kumar and another **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present: Ms.Meenal Goel, Advocate for the petitioner.
Mr.Sandeep K. Sharma, Advocate for the respondents.

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JUDGMENT

HEMANT GUPTA, J (Oral)

The petitioner is a tenant of a godown situated in urban area of Rohtak. During the floods of 1995, the front portion of the said godown fell down. The respondents-plaintiffs, landlords of the godown, filed a suit restraining the defendant-petitioner herein, from raising construction of the fallen portion of the godown. Though the said suit was dismissed by the learned trial Court, but the same was decreed by the learned First Appellate Court.

An application was filed by the plaintiffs under Order 39, Rule 2-A of the Civil Procedure Code to the effect that construction has been raised by the defendant in violation of the interim orders passed in the said suit. The said application was dismissed by the learned trial Court on 24.5.2003, but in appeal against the said order, a finding has been returned that the defendant-petitioner has violated the said order and thus is liable to be prosecuted under Order 39, Rule 2-A of the Civil Procedure Code.

It is admitted by the respondents that the godown in respect of which the petitioner has been found to have raised construction in violation of the interim orders, has since been vacated in terms of the orders passed in separate eviction proceedings. Since the godown is already in possession of the plaintiffs-respondents, the petitioner cannot carry out any action so as to restore the godown in its original possession, so as to comply with the interim orders passed in the civil suit. The purpose of Order 39, Rule 2-A of the Code of Civil Procedure is to seek compliance with the order passed and not to punish the non complying party. Therefore, the orders passed by the learned Additional District Judge, are set-aside having rendered infructuous.

The revision petition stands disposed of accordingly.

(HEMANT GUPTA)
JUDGE

November 17, 2006
**mohinder*